

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298



June 29, 2004

TO: PARTIES OF RECORD IN APPLICATION 03-07-032

Decision 03-12-059 was mailed to the parties on December 23, 2003, without the concurrence of Commissioner Brown. It has come to my attention that the concurrence of Commissioner Brown may not have been distributed to the parties when it was prepared on January 27, 2004, nor was it published at the Commission's web site. Attached is the concurrence of Commissioner Brown to Decision 03-12-059. It is also being placed on the Commission's web site, accessible through the "Official Documents" section.

/s/ PHILIP SCOTT WIESMEHL

Philip Scott Weismehl, Assistant Chief
Administrative Law Judge

Attachment

PSW:vfw

Commissioner Geoffrey F. Brown, Concurring:

I support this decision with mixed feelings. On the one hand, I strongly believe that Edison's acquisition of this power plant is in the public interest. It is a good deal on the basis of cost; it is needed to fulfill future energy needs; and it is a very efficient plant. On the other hand, I am not happy with the structure of the deal. I would have much preferred the Edison directly own the plant under PUC jurisdiction rather than this somewhat complex contractual arrangement with an affiliate under FERC jurisdiction.

Edison claims it will walk away from the deal if this commission forces it to file for a CPCN, or even if we were to immediately grant them a CPCN in lieu of this contract. I am not convinced that this is true, and I do not like this tactic. However, I am not willing to take the chance that this opportunity could be lost.

This is a unique opportunity, and these are unique circumstances. Therefore, this is a one-time deal. This is not a precedent for evading PUC jurisdiction. I do not intend to vote to approve any further contracts of this nature, not should the commission.

/s/GEOFFREY F. BROWN

GEOFFREY F. BROWN

Commissioner

San Francisco, California
December 18, 2003